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GEORGE SHARSWOOD—TEACHER AND FRIEND.

by

SAMUEL DICKSON,

Of the Class of 1858.

In view of the fact that Judge Sharswood was the real founder of this Law School, and that his work as a professor has been, and continues to be, the strongest single influence in determining the character of the Philadelphia Bar, it would seem to be appropriate, upon such an occasion as this, to give some account of his views on the subject of Legal Education, and of his relations to the students of this School, not only during his term of service but in later years. His own writings offer abundant information for such a sketch, and the purpose in view will be best subserved by letting him speak for himself.

By way of preface, however, it will be useful to refer to the method of preparation, which he pursued before, as well as after, beginning the study of law. Born in this City, he entered the Sophomore class of the College Department of the University of Pennsylvania at the age of fifteen, and was graduated in 1828, at the head of his

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class, delivering the Latin Salutatory. In later years he sometimes quoted the old saying that "first honor men never accomplished anything in after life:" but with himself and the present Provost as exceptions to the rule, no ambitious student need fear to peril his future by getting as near to the top as he can.

In 1856 and 1859 he delivered two Addresses before the Alumni Society of the College, which incidentally disclose the scope and extent of the *curriculum* of studies constituting the college course of that day, as well as the character of instruction given. The Classics, Mathematics and Mental and Moral Philosophy were the principal subjects of study; and he attaches special importance to the thoroughness of preparation which was required. In these Addresses, as in his Introductory Lectures, the one topic to which he constantly refers, is the importance of thorough, exact and accurate knowledge of what has been studied. Thus in the Address of 1856, after having declared that the memories of his college course were among the most delightful of his life, he speaks with warm appreciation of his fellow students and of "the venerable and beloved men who formed at that time the Faculty of Arts"; and he refers to Doctor Thompson, the professor of languages, as one "who most carefully insisted upon an accurate knowledge of the grammatical structure of the languages, while, at the same time, he did not neglect in his prelections to lead the mind of the student to a discernment and relish of the beauties of the chaste models of poetry, history and eloquence, which, in turn, became the text books of his recitation-room," and added—"Beyond question it is in the slow, patient and constant exercise of the power of discrimination in analysis—in the consequent improvement of the most important of the mental faculties, the judgment—and in the formation of habits of concentrated and steady attention, that classical studies are most useful to the youthful intellect. While the memory is not over-burdened, every lesson tends to the gradual development of the intellectual strength . . . The

maxim, *multum sed non multa*, applies with peculiar force; and such was the leading feature in Professor Thomson's course. The recitation was short, but he exacted a perfect knowledge of it in every student. Pages could not express a higher eulogium upon him, as a teacher of the true old stamp."

Of Doctor Patterson, the professor of mathematics and natural philosophy he says: "That it may well be doubted whether there ever was in any institution of learning a more popular professor;" and in his account of the course in mental and moral philosophy, Judge Sharswood refers to the works of Locke, Berkely, Hume, Reed, Kant and Hamilton in a manner, which indicates that he thoroughly understood the systems of philosophy of which they were the authors.

In his later address, he protested against the attempt to teach too much and too many subjects and lamented that "in the race to accomplish great things, we seem to have forgotten the good old motto, *Festina lentè*—the unquestionable axiom that accurate knowledge of the first elements, well engrafted in the mind by frequent repetition, goes much further in making a thorough scholar than lessons, recitations and lectures, intended to put the pupil in possession of everything that ever was or is known. Voluble talkers may be thus manufactured, but not scholars or students. They may fancy that they are *savants*, but the world soon discovers them to be superficial *sciolists*. They forget all they were taught in less time than it took them to acquire it, and have failed to obtain what is the most important of all, a love of knowledge and the art of learning as things ought to be learned. Read only few books, but understand them thoroughly. Let them be the standard works—the master pieces. Study but few subjects, but conquer such as you do study. . . . Accurate knowledge is that which is truly power. It has certainty, and therefore force. It gives assurance and confidence to the possessor. It makes him a close, logical thinker, he sees clearly his way, and his course is simple, direct and onward."

These views were copiously illustrated, and he closed by saying: "Thus I have endeavored, very imperfectly, I am aware, to illustrate and enforce a very old opinion, but still true, that there is no royal road to learning—that hurrying, and crowding, and cramming are injurious, if not fatal to the vigor of mind as well as of the body."

He maintained, therefore, that the great end of a college or even a professional course, was attained if it turned out earnest students—"if they have imbibed a love of study and have learned how to study." He added:

"There are two lessons, which cannot be too often and too solemnly impressed on the mind. One is, that constant, moderate, well tempered exercise is the law of mental, as it is of physical, improvement. The other is more difficult to realize, but equally important; that it is better to know a little accurately and perfectly than a great deal superficially and imperfectly."

His simplicity and sincerity of character were such that it is impossible to believe that he had not pursued his own studies substantially in the manner, which he recommended to others.

After having finished his college course, he was registered in the office of Joseph Reed Ingersoll, of whom he used to speak in after life as "my honored master." Mr. Ingersoll was the son of Jared Ingersoll, who had been for five years a student in the Middle Temple, and was named for President Joseph Reed, who had also been a student in the same place from 1763 to 1765. Mr. Joseph Reed Ingersoll's father and preceptor was the Jared Ingersoll, who was portrayed by Mr. Binney in his account of the Leaders of the Old Bar, and who was described by Judge Sharswood as "the most distinguished leader of the Philadelphia Bar in its palmy days." Under such surroundings and influences, Mr. Ingersoll had been prepared for the Bar, where he soon won a prominent position of his own, and, after having served several terms in Congress, he accepted a position as Minister to the Court of St. James. While in active practice, he received

many students in his office, and among them Mr. Sharswood. At the Bar meeting held upon the occasion of the death of Mr. Ingersoll, Judge Sharswood recalled the warning given him at the time of his beginning his studies:

“In substance, he told me, that I had chosen a very laborious profession; the study of the law was no child’s play; that there was no use beginning unless I was very much in earnest; that it would demand the exercise of every faculty I possessed to master it as a science, and apply it as a practice,”

As a rule, lawyers at that time had their offices in their dwellings, and devoted most of their evenings to professional work. Students were expected to give at least five evenings of the week to study, and it was usual for the preceptor to direct their reading, to test their progress by frequent and systematic examinations, and to supervise their drafts of pleadings, conveyances and other legal instruments. This was the training, which Lord Eldon thought invaluable, if not indispensable; and he ascribed his knowledge of equity pleadings to having copied everything he could lay his hands upon (1 Twiss, 98), just as Judge Curtis ascribed his skill, as a common law pleader, to his having been in the habit of reciting Chitty’s forms, while walking the floor with a sick child in his arms. (Life of B. R. Curtis, Vol. 1, 61.)

The close and constant intercourse in the office also resulted, in many instances, in intimate friendships, and students, at that time, grew up under social influences of the most wholesome and elevating character.

In a sketch of Mr. Ingersoll, written for the American Philosophical Society, Judge Sharswood thus described him as a preceptor:

“It is a very high testimonial to the estimation in which Mr. Ingersoll was held as a lawyer and a man, that so many young men were placed under his direction by their own choice or that of their parents or guardians, to be trained for the bar. I have a list taken from his diary, commencing in 1826, of forty-five

names: some eight or ten preceded that period. His course toward them was marked by great fidelity as well as kindness. He not only prescribed their course of reading, and examined them at short stated intervals as to their progress, and understanding of the subject—but took care by employing them in the preparation of pleadings and other legal papers,—in making searches in the offices, and occasionally attending before magistrates and arbitrators, that they should be initiated in the practice of their profession. He was always ready to resolve their doubts, or to explain what they could not understand in the course of their studies. He followed them after their admission to the bar, with advice and encouragement, associating them with him in the trial of causes, and manifesting in every way a deep interest in their success. Many of them have done honor to his instructions by eminence in their profession, and have concurred in cherishing and expressing on all suitable occasions, their confidence, respect and affection for him. To me it is a source of pride and gratification, that having been one of his students, and honored as I believe with his friendship and regard after leaving his office, I am permitted the privilege, on an occasion like this, to record my sense of the obligation under which he placed me, and to testify my reverence and gratitude. *An quicquam nobis tali sit munere majus.*"

Of Mr. Ingersoll's students, Judge Sharswood was the most distinguished. He was admitted to the Bar on December 15, 1831; but fortunately he was able to continue his studies for some years longer before becoming immersed in ordinary work. It is only a part of the course of study, which he himself pursued, that he afterwards outlined in the appendix to his Professional Ethics, and reproduced in a note to Blackstone's introductory chapters on the Study of Law in General.

While following the course of legal study there recommended, he went through a systematic course of reading upon economic questions and in the classics, and acquired a sufficient knowledge of French and Spanish to read those languages with facility. Before becoming occupied as an active practitioner, he began as an annotator, and

became sufficiently well known to be elected three times to the State Legislature, and once to the Select Council of the City of Philadelphia. In 1841, he wrote the Report of a Committee appointed by the stockholders to examine the affairs of the Bank of the United States, which is copied at length in Benton's *Thirty Years' View*. It required a great deal of courage for a representative from Philadelphia to write such a paper at that time, and it is remarkable that one so young and with so little previous knowledge of practical affairs, should have been able to deal so effectively with the facts and figures of that stupendous insolvency. It is well worth reading now and will be found strangely relevant to the discussions of our own day.

He always regarded the knowledge of men and affairs, which he had acquired as a legislator, as of the greatest value to him in his services as a judge.

His learning and ability had become so well known that his appointment in April, 1845, as Assistant Judge of the District Court of Philadelphia, was universally approved and he was confirmed by the unanimous vote of the Senate. When he took his seat, he was but thirty-five years of age, and thereafter he continued a member of that Court until his election to the Supreme Court in 1867. Upon the resignation of the President Judge in 1848, he was appointed his successor. Under the amendment of 1850, to the State Constitution, all judges of the Courts of Pennsylvania were made elective, but while opposing candidates were nominated against others at the election, of October, 1851, he received the nomination of all political parties and was unanimously elected.

In this connection the fact may be recalled that notwithstanding his well known opinions upon public matters, Judge Sharswood was unanimously elected during the excitement of the War to the District Court in 1861, and to the Supreme Court in 1867, over an unexceptionable candidate, though Republican candidates for all other offices received a large majority. It was said by David Paul Brown, at the time of his re-

tirement from the District Court, that he had been the candidate of both parties and that there was not a single member of the Philadelphia Bar but had stood by him. His response showed how fully he reciprocated the friendly regard of his Bar:—

“I came upon this bench comparatively a very young man and with very little experience. Practically, I had much to learn and much to unlearn. In the trial of causes there is always mental excitement, to which in my case there has often been superadded the irritation arising from bodily suffering. I feel conscious I have often made large drafts on your forbearance, but I have always found you willing to meet them. And now, looking over this large bar, allow me to declare that there is not a single member of it to whom I cannot with the most perfect sincerity hold out the right hand of fellowship and brotherhood.”

It is no disparagement to his work as a member of the Supreme Court, to say that it was when presiding over a jury trial that Judge Sharswood's powers were displayed to the best advantage. In a letter to Mr. Webster, written a month after he had been engaged on the business of the Circuit Court, Judge Curtis wrote:

“It seems to me that a far more difficult and useful field of labor, speaking generally, is the safe, prompt, judicious and wise controlling power of a Judge on the Circuit. I have no doubt that every quality and attainment of which a Judge is capable, may there find their fullest exercise and their most difficult work. I presume that you will agree with me, that there is no field for a lawyer, which, for breadth and compass and the requisition made on all the faculties, can compare with a trial by jury; and I believe it is as true of a judge as of a lawyer, that in their actual application of the law to the business of men, mingled as it is with all passions, and motives, and diversities of mind, temper, and condition, in the course of a trial by jury, what is most excellent in him comes out, and finds its fitting work, and whatever faults and weaknesses he has are sensibly felt.”

In this estimate of the qualities required for the successful conduct of jury trials, every lawyer of practical experience will concur; and it may be said deliberately, with a full apprehension of the force of the words used,—that never was there any English speaking judge the superior of Judge Sharswood at *Nisi Prius*.

The business of his Court was large and varied, embracing every phase of civil business, and he showed himself competent to deal with any question brought before him.

His grasp of the facts in a case was unusually rapid and distinct, his knowledge sure and exact, and his power of statement unequalled in its clearness and impartiality. He enforced the rules of evidence himself without waiting for objections; leading questions were checked, nothing was allowed in rebuttal that should have been offered in chief, and every question which arose upon the trial was ruled, and ruled squarely, without argument. His attention never flagged, and his own notes of testimony were a complete record of every case, and in his charges the facts were presented so fully, the evidence was marshalled so fairly, and the law applied with such clearness of exposition, that it was often said that no counsel ever fully understood his own case till he had heard Judge Sharswood's charge to the jury, and the losing party went away satisfied that full justice had been done. *Etiam quos contra statuit, æquos placatosque dimisit.* In the calling of the motion and argument lists his dispatch of business was even more striking. He seemed to detect at a glance the real point of a case, and to have at instant command the law, which bore upon it. At the same time, if counsel had anything pertinent to urge he was a patient listener, and being absolutely free from pride of opinion, if convinced he was wrong, he would acknowledge his mistake without hesitation. I remember more than once hearing him say at the opening of Court:—"I have thought over that offer which I rejected yesterday and am satisfied I was wrong. Let the witness be recalled." In short, every one in the court room was

made to feel that the sole purpose in view was to get at the truth, and that he, as the ablest and wisest of them all, was guiding and directing the whole proceeding to reach that end and that only. It never occurred, therefore, to any one to suggest that he was above bias, partiality, or influence, for no question of the kind ever occurred to any one in his presence. It was apparent that his mind was so constituted that it would have been impossible for him, if he had tried, to entertain an improper motive in the discharge of official duty.

Such services, so rendered, naturally gave him an unusual ascendancy over the Bar of his Court, and it is not extravagant to say that he possessed the respect and affection of every practitioner, who appeared before him. Indeed, it would be quite impossible to make the present generation understand with what reverence and admiration he was regarded by the lawyers of the days of the old District Court, and hence when he determined to try the experiment of reviving the Law School, it was felt that the junior Bar as well as students should take advantage of the opportunity of attending his lectures. He was elected professor of Law, April 9th, 1850, and chosen to fill the chair of the Institute of Law in 1852, when a full faculty was organized; and continued to perform his duties until April 30th, 1858, after he was elected to the Supreme Court.

Judge Sharswood then felt it his duty to resign his position as Professor; but it was not to find time for any outside occupation inconsistent with his judicial work. He never, at any time, engaged in outside speculations or the reckless pursuit of pecuniary gain, nor permitted himself to acquire any interest which could conflict, by the disturbance of thought or otherwise, with the undisturbed discharge of his official duty.

At the Bar meeting after his death, Mr. Eli K. Price said:

“As practitioner, professor, judge, Judge Sharswood was under a necessity of never ceasing to be a close student. He must not mis-instruct; he

must not be unfaithful to client; he must not wrong any party whose right is impending; he must not warp or subvert the law. He must keep his own mind in best working condition, freed from personal anxieties, untossed or depressed by speculations, unoccupied even by legitimate pursuits of profit outside his profession. How sensitively and conscientiously watchful was Judge Sharswood of this necessity, I will cite a case in proof. He owned an inherited lot northwestward of the built city, worth, wholesale, the fifty thousand dollars he was offered for it. He asked my advice: I said, better retail it in building lots, reserving ground rents, free from taxes, for an aggregate double the offer, of safest investments. He said, 'That he could not do, that would take time and attention which belonged to the public; this I have never permitted myself to do.' He accepted the wholesale price, and invested in city sixes."

For some years it was his custom to deliver at the beginning of the year an Introductory Lecture, and in 1870 he printed a little volume entitled "Lectures Introductory to the study of the Law" which he dedicated to his friend, Mr. George W. Biddle. Some of the matter contained in these lectures was afterwards reproduced in the volume entitled "Professional Ethics," but as a large part of the edition was destroyed by fire and the work is now out of print, it is proposed to make copious extracts, of passages bearing upon the proper methods of preliminary and professional education.

In the first lecture he stated what he hoped to accomplish.

"It is not my design at this time, to present an outline of the course of instruction, which it is proposed now to attempt, nor to vindicate the principles upon which it is based. Such a discussion would be dry and uninteresting, and very inappropriate to the occasion. I may be allowed, however, to observe in general, that it is not intended to present a popular but a strictly professional course. It will indeed in the nature of things, necessarily be confined to the most simple and elementary principles, for it must embrace in its compass the whole range of the science.

Nor is it proposed merely to read a regular series of formal original lectures. I am a most decided unbeliever in that mode of communicating knowledge upon an abstract branch of science like that before us. I believe that Algebra or Geometry may be as well taught by lectures as Law. The true method of legal instruction is almost as old as the Common Law itself, and is pithily expressed by Lord Coke in these words: 'Reading without hearing is dark and irksome; hearing without reading is slippery and uncertain; neither of them yield seasonable fruit without conference.' My design is to meet as many young gentlemen as may be inclined to form a class, twice a week, and with the use of a very few of the most approved text books, accompanied with oral and written explanations and illustrations, conduct them through such a course of elementary studies as may be accomplished in two years.

"It is hoped that, while this course will not interfere with the reading, which may be prescribed by their private preceptors, it will be a useful auxiliary to their progress—assist them in a frequent recurrence to elementary principles, illustrate their application to practice in cases actually occurring, and serve thus to fasten them firmly in the memory. 'The real amount of what a man may teach,' says a judicious writer, 'is a subordinate thing to showing others how to learn, and making them wish to learn.' I make no promises; but as far as the duties of a very arduous public station, which has the first claim upon my time and attention, will permit, I will do my utmost to fulfill the just expectations of those who have placed me in this post, and to lay the foundation of a Pennsylvania Law School, with chairs, to be hereafter filled by abler men."¹

Referring to Ben Johnson's dedication of his comedy of "Every Man out of his Humour," "To the noblest nurseries of humanity and liberty in the kingdom—the Inns of Court," he contends that, in free countries, Law Schools are still the noblest nurseries of humanity and liberty. In developing this thought, he contends that in this country the lawyer should deal with the province of legislation as well as that of jurisprudence and that

¹ Study of the Law, pp. 2-3.

hence the legal profession, placed in a position of political importance and responsibility, demands, the highest moral and intellectual qualifications. As to the latter, he says:

“The intellectual qualifications required are also of a high order. It may not indeed be necessary that every student should have gone through the preparatory training of a college course. The want of early advantages may be and often is supplied by the more mature studies of riper years. In every view, however, which can be taken of it, a solid foundation in classical learning is of the highest importance. By it the principles of general grammar become thoroughly understood and familiar—as is the common observation of most intelligent teachers of modern tongues. If a man has had the good fortune to acquire the rudiments of the dead languages in his youth, he should never suffer himself to lose them by disuse; if he has not, it is by no means too late to begin. Cato, the Censor, we are told, at a very advanced age commenced and accomplished the acquisition of Greek. The opponents of classical learning have generally conceded it to be useful to professional men. The reason they give, that much of their learning is still buried in Latin, is, as far as law is concerned, not a sound one. All of any real consequence has been translated, and they may resort to translations as well as others. The scraps of Latin maxims, which they may meet with occasionally, will present no serious impediment to their reading. The true reason is, that the mind of a professional man requires that strict discipline and close exercise of its powers, which this study is calculated to produce. It strengthens the discriminative and reasoning faculties—fosters habits of attention, accuracy and continued investigation—as well as readiness in the application of general rules to particular cases. Besides all which, it forms the taste by models, which having met the universal approbation of mankind for so many successive ages, must beyond all cavil possess inherent excellence. ‘No man,’ says Sir William Jones, ‘ever perused the works of Cicero without improving in eloquence and wisdom.’ ”²

² Pp. 30-31.

After having inculcated the importance also of a knowledge of mathematics and the natural sciences; of history and intellectual philosophy and urged the cultivation of a habit of general reading he proceeds:

“But after all, the main business of the student of law must be to acquire a thorough and competent knowledge of the science which is to be his profession. It is to this he must give his courage and care; and it requires both. He will find much to discourage him,—more especially at the threshold. *Molem non ingentem solum, sed totis humeris sustinendam*. It cannot be too strongly impressed on his mind that he must at first appear to himself to make very slow progress. He must be content to learn a few things well. If he sets out with great rapidity, he will only lose his time. It is in this as in all other sciences, the first and simplest lessons are the most valuable. If the elements are not thoroughly mastered, his whole subsequent course will be a weary drag. To con over his first studies again and again, until he thoroughly understands and has them interwoven as it were in the very frame of his mind, so that he can close his text and reduce them to writing, in his own language, but in the order and method of his author; this may try his patience, but he will soon be rewarded for his toil in the legal apprehension he will acquire, and the pleasure which will grow upon him as he proceeds. ‘That gourd,’ says Bishop Hall, ‘which came up in a day withered in a day, whereas those plants which abide age rise slowly.’ Great care as well as courage must be exercised. *Non multa sed multum* is the maxim for law students. It is not legal education to undertake to store the memory with a mass of points and cases. The dangers of a *cursorious and tumultuous reading, which doth ever make a confused memory, a troubled utterance, and an uncertain judgment*, are becoming more and more imminent,”⁴

The subject of the second lecture was “Legal Education,” and he begins as follows:—

“If the legal profession requires in those who would honorably occupy its ranks the highest intellectual

³ Pp. 33-34.

attainments as well as the purest moral qualities; if it is a public rather than a private calling; and exercises a most powerful influence in the making as well as the administration of the laws, the importance of liberal, sound and thorough legal education will not be questioned.

“That it should be *liberal* is demanded alike by the progress of the age and the circumstances of the country in which we live.”⁴

He contends, therefore, that the American lawyer must be, to some extent at least a jurist and that it is highly important, if not essential . . .

“that there should be a preparatory training adapted more or less to the study of jurisprudence. The foundation should be laid in an acquaintance with the masters of thought on moral and political subjects, whose works can only be appreciated by an accurate knowledge of the dead languages in which they are written, while the study of a language itself is best calculated to invigorate the intellectual powers and form those habits of mind and thorough analysis and investigation, which are necessary to the successful prosecution of the study of every learned profession—the profession of the law particularly. A collegiate course may not be always practicable, but whenever it is it should be enjoyed. There are no studies better calculated to expand the mind, excite in it the love of learning, qualify it to learn, and prepare it as the seed ground for the work of implanting, cultivating and bringing to maturity the elements of legal knowledge and the faculties demanded by the pursuits and researches of the lawyer. I may be permitted to go further, and say that I have always thought that the first books placed in the hands of the student of law, should be those which treat of the principles of general jurisprudence, apart from the peculiarities of any particular system. Of these, we have able, instructive and compendious treatises by Paley, Burlamaqui, Montesquieu, Rutherford, Vattel and Wheaton. Following upon such a course, American constitutional law—a branch of jurisprudence peculiarly the pride and glory of the United States—naturally cognate to what has pre-

ceded would open the mind of the student to the practical application of general principles in the formation and construction of free institutions. De Lolme, Millar and Hallam on the English Constitution, would be a fitting introduction to the Federalist, Kent and Story. The time thus spent *in limine* would tell on the future progress of the student. The scythe thus whetted would cut the keener."⁵

Inforsing his favorite doctrine of the necessity of thoroughness, he says:

"When we approach the consideration of the position that legal education, as well as being liberal and sound should also be thorough, it is to be confessed that we are met at the threshold by the difficulty experienced also, in this country, by the other learned professions, that of securing devotion of time and study enough to render this result probable, or even possible. It is the characteristic of the youth of our country that they press too earnestly to enter early upon the arena of action. The time to train the athlete properly is not taken, and many a downfall succeeds in consequence. An apprenticeship of five or seven years is not deemed too long to learn a mechanical occupation, a period of two to three years is all that is allowed to make a lawyer. Very little can be really learned in that time; but yet, if that little is well learned, the student not confounded and embarrassed by undertaking too much, by overloading himself beyond his strength, more especially if he can succeed, as he may if properly directed in learning how to study and in learning to love to study, the shortness of the prescribed period is not an insuperable obstacle in the way. With the acquisition of this qualification, half the work is accomplished. At or about the period of admission to practice is, in fact, most frequently the turning point in a lawyer's life. There are few young men, who come to the bar who cannot find ample time in the first five or seven years of their novitiate to devote to a thorough mastery of the learning of their profession, if they feel the need of it and the ambition to acquire it. The danger is great that from a faulty preparation, from not being made to see and appreciate the

⁵ Id, pp. 41-52.

depth, extent and variety of the learning they are to seek, they may too often mistake the smattering of knowledge they may have picked up for profound acquirements.”⁶

After further enforcing this, he thus speaks of the function of a law school:

“What is the part of a law school in a system of legal education? This must be confessed to be a question of some difficulty. Law belongs to the moral sciences, and cannot, like the medical art, which belongs to the natural sciences, and in most of its branches is demonstrative, be so advantageously taught by lectures. There is a closeness of application, an abstraction of mind, required that does not suit the lecture room. No course of lectures, however able, and however faithfully attended, could ever even lay the foundation of the rudiments of the science. Nor do I think the mere preparation of a portion of some elementary writer for recitation, to the teacher, especially if the student be required to pursue different subjects at the same time, a mode calculated by itself to answer the end proposed. I am firmly persuaded that nothing can nor ought to dispense with the necessity of a regular clerkship in the office of a practising attorney. It is there alone the student can be rightly trained, daily watched, directed and encouraged. The labors and avocations of an office are necessary not merely to give some insight into business, and prevent the growth of habits of indolence, but to keep the student from reading too many books, to oblige him to think more and frequently to turn back and review what he has read—a matter that at the outset of this study cannot be too much insisted on.

“A law school, law lectures and recitations, essays and forensic discussions, can act properly only as auxiliary to the studies of the law office. I am disposed to believe, from a limited experience, that they will be found most valuable to those who have just been admitted to the bar. The attendance upon the school a portion of their time—that conference upon the subject of their pursuits which Lord Coke terms the *life of study*—and the occasional inde-

⁶ Id. pp. 54-55.

pendent exercise of their powers in the public discussions and duties prescribed, will afford to young men thus situated an agreeable as well as useful relief to the tedium of solitary study, and like milestones to travellers on a long journey, will enable them to measure their own progress, and keep them from discouragement and despair."⁷

" . . . There is another respect in which it seems to me the exercises of a law school may be peculiarly valuable to those engaged in the study, but more particularly to young practitioners. I mean by the presentation, in lectures of the latest changes, and the leading cases in principles and practice in the courts of the state where the school is established, and which its students themselves propose as the theatre of their future professional lives."⁸

"Now, it is just here, as it occurs to me, that the lectures and oral instructions of a professor can be made the most useful. He can introduce something like a system on this subject, reduce this confused mass of statutes, customs, and authorities to rank and order, select the leading cases, and inform the student on these to him most interesting topics, at least go with him over the field, and point out how it may be more minutely explored. It was in this view that upon my election to the vacant Chair of Professor of Law in this University I commenced the preparation to a course of lectures upon the Institutes of the Laws of Pennsylvania, determining to confine my labors to that as independently important in itself, and as deserving to retain its independent place, should the Trustees of the University determine to establish a regular law school, with a full faculty."⁹

When Judge Sharswood wrote, the habits of professional life, and the localities in which most practicing lawyers resided in Philadelphia made it easy and convenient for a preceptor to hold an evening quiz, but under existing conditions it is practically impossible to keep up the old system in any large city. Changes have been made, however, in the methods of conducting the work of the Law

⁷ Id. pp. 59-60.

⁸ Id. p. 61.

⁹ Id. pp. 63-64.

School, which greatly improve its efficiency and obviate some, if not most, of the objections, which formerly existed.

In the following year he takes as his subject the "Relation of Law to Moral Science" and says in the course of his remarks:

"When we regard ourselves as ministers at the altar of divine law, every office, however trifling, there performed, will, in our eyes, be a consecrated and holy service. Then we shall feel what it is absolutely necessary that we should feel, that there is no department of human or divine knowledge that has not important relations to practical as well as theoretical jurisprudence; no field of fancy, which does not yield flowers to adorn its chaplet; no mine of science, however deep, from which the precious ore cannot be dug to enrich it. 'There have been lawyers,' exclaims Lord Bolinbroke, 'that were orators, philosophers, historians; there have been Bacons, and Clarendons, my lord. There will be none any more, till in some better age, true ambition or the love of fame prevails over avarice, and till men find leisure and encouragement to prepare themselves for the exercise of this profession, by climbing up to the *vantage ground*, so my lord Bacon calls it, of science, instead of grovelling all their lives below, in a mean but gainful application to all the arts of chicane. Till this happens, the profession of the law will scarce deserve to be ranked among the learned professions, and whenever it happens, one of the vantage grounds to which men must climb is metaphysical, and the other historical knowledge. They must pry into the secret recesses of the human heart, and become well acquainted with the whole moral world, that they may discover the abstract reason of all laws; and they must trace the laws of particular States, especially of their own, from the first rough sketches to the more perfect draughts; from the first causes or occasions that produced them, through all the effects, good or bad that they produced.' (Letters on History)."¹⁰

The subject of his fourth lecture was on "Commercial Integrity" which led him to refer to some questions of

¹⁰ Id. pp. 73-4.

Political Economy, and after alluding to what were termed "the agricultural and mercantile systems" he thus speaks of the Modern School of Adam Smith:

"It is the modern school of Political Economy, the father of which was the justly celebrated Adam Smith, which has raised trade to its true dignity, and given that great impetus to the advancement of the race, which has taken place in the last sixty years. It has conferred its true importance, and honor upon all labor, intellectual, or physical, the labor of the menial domestic as well as that of the statesman, advocate, physician, farmer or mechanic."¹¹

In the three following lectures he dealt with Natural Law, the Civil Law and the Common Law of Pennsylvania, summing up the work of the student, as follows:

"Wide indeed is the scope of study and practical duty laid open before the student and practitioner of the Laws of Pennsylvania. In the profession in England, there is much division and subdivision in the different branches of science and practice. But with us—besides in the first place a knowledge of the principles of the common law, and of practice, pleading and evidence in the common law courts, of equity jurisprudence, and of chancery process and pleading, as a separate system—it is necessary to understand the operation and application of both these systems intermingled in a mixed forum of Law and Equity. To this add that the advocate in our American Courts, must be acquainted with International Law, and especially with that branch resting upon the comity of independent sovereignties, which we term the Conflict of Laws, with the rules and practice of the Admiralty, and with the all-important department of political science, which has grown up in consequence of our written constitutions, State and Federal. Surely, earnest, constant, and uninterrupted application is demanded, in preparation for practice, in this country and this State. It may be confidently affirmed, that a division of labor in our science, however practically convenient, is not desirable, with reference to the character, rep-

¹¹ Id. p. 95.

utation, and influences of the profession. Enlarged and liberal views upon all questions—habits of extended investigation—and a familiar acquaintance with our varied legal literature, are necessary to enable the lawyer to answer the ever varying demands made upon his intellectual resources. Engraved upon the door of his book case must be the motto, '*Nulla dies sine linea.*' Neither business nor pleasure should be allowed to interfere with some course of systematic study."¹²

Finally in the lecture on "The Feudal Law" he answered the question as to the importance of the discussion as to the existence of feudal tenures in Pennsylvania by pointing out that the feudal system is the keynote of our jurisprudence, and quotes with approval Mr. Binney's statement that:

. . . "beginning with the fundamental law of estates and tenures, and pursuing the derivative branches in logical succession and the collateral subjects in due order, the student acquires a knowledge of principles that rule in all departments of the science and learns to feel as much as to know what is in harmony with the system and what not."¹³

In the appendix to his "Professional Ethics" and in a note to his edition of Blackstone's Commentaries, Judge Sharswood gave a list of more than eighty text books, which he recommended the young lawyer to read after admission, at the same time that he should refer to the leading cases cited as authorities and read and reread Blackstone and Kent.

Such was the course of study he prescribed for those who wished to attain the standard of excellence which he set before them and such were his views upon the subject of Legal Education.

When he delivered the lectures from which extracts have been read, and outlined the course of study which should occupy the first years of the professional life of the young lawyer, he was speaking from a large practical

¹² Id. pp. 199-200.

¹³ Id. p. 230.

experience as well as from a personal knowledge of the principal subjects under discussion. He believed it possible that a diligent and resolute student could master the subjects, which he enumerated, and, as a result of his observations at the Bar and on the Bench, as well as from his own personal experience, he was convinced that the study of the law should not be undertaken without a course of preparation such as he had laid down.

It is appropriate in this connection to recall the fact that the rule of the Philadelphia courts requiring a preliminary examination, before registration as a student at law, was proposed in the Board of Examiners at his suggestion and adopted by the courts upon the recommendation of the Board. It is too much to hope, however, that candidates for the Bar will give the time and toil to their preparation, which he enjoined, and yet in the early history of this city the leading men had nearly all gone through an apprenticeship as long and laborious as he advised. Before the Revolution, those who went to London to continue their studies in the Inns of Court had generally read three or more years under a preceptor, and been admitted to practice before going abroad; and Chief Justice Tilghman spent four years in the office of Chief Justice Chew and seven years more in hard reading, before his admission to the courts of Maryland. Mr. Binney was certainly justified, therefore, in saying that "we may infer that an apprenticeship of eleven years had filled his mind with legal principles sufficient to guide and enlighten him for the rest of his life." Chancellor Kent estimated that 280 volumes would combine all the books of any importance relating to the Roman Law in the time of Justinian as against 848 volumes of English and American law books at the time of writing his Commentaries, and yet Justinian continued the requirement in the law schools of the Empire of a five years' course. In view of the development of many branches of law, since Kent wrote, leading naturally to a vast multiplication of law books, the contrast is now still more striking, so that the time required for the range of study marked out by Judge

Sharswood, supplemented by what has since become imperative, cannot be regarded as excessive and yet the standard of accomplishment which he set up can not be pronounced unattainable. In his own person, he demonstrated the feasibility of mastering the course of study he recommended and the value of such preparation. Whenever the occasion called for it he had the training, which comes from classical and philosophical studies, and the acquaintance with economic and other sciences, which was the fruit of careful and laborious study, and of intelligent and systematic reading in later years. He was absolutely free from any disposition to make a parade or display of his learning, and it was rarely, and only when useful by way of illustration, that he made any allusion to other than professional matters. A reference has already been made to his mention of Adam Smith, of whom he held almost as high an estimation as did the historian Buckle. In his dissenting opinion in *Borie v Trott*, under the Lgal Tender Act, he referred to the political history of the Country with fulness of knowledge and discussed the nature of money with the familiarity of an expert in economic matters. No one can form an adequate notion of Judge Sharswood's learning and power of argument without a careful study of that opinion. It is as timely, too, at the present as, when written.

The only other instance in his opinions, which I recall, where he alluded to such matters, was in *Palairet's Appeal*, 67 Pa. St. 479, where in discussing the limitations upon the power of the legislature to authorize the exercise of the right of eminent domain under an act authorizing the compulsory extinguishment of irredeemable ground-rents, he said:

"Suppose then the legislature should adopt what has been a favorite theory with many political economists, that small farms are injurious to the community, prevent the full development of the agricultural resources of a country, and ought, therefore, as speedily as possible, to be united and formed into large ones. Then reciting this to be the true policy of the state, let them provide that every farm of less than

100 acres shall be attached to and become the property of the adjoining owner of a larger farm at a valuation to be determined by a jury. When the King of Samaria coveted the little vineyard of Naboth hard by his place, that he might have it for a garden of herbs, and offered to give him a better vineyard than it, or if it seemed good to him, the worth of it in money, he was met by the sturdy answer,—‘The Lord forbid it me that I should give the inheritance of my fathers unto thee; Would any one be hardy enough to stand up in a republican country and claim for its government a power which an eastern monarch dared not to assume?’”

But it was only off the Bench that he disclosed his stores of knowledge of non-professional subjects. He had followed out one line of investigation after another because of his own deep interest in it, and having satisfied himself he had always the impulse to teach. He was always ready, therefore, to give his friends the benefit of his counsel and co-operation. This ready sympathy, which kept him in touch with all who wished his help and advice, led him to associate himself with young men in many lines of study.

Thus for many years he had a Bible Class on Sunday mornings. He had acquired a reading knowledge of Hebrew and was able to read both the Old and New Testament in the original tongues. One of the class afterwards displayed his acquaintance with the Pentateuch, in the notes to his treatise on Partnership, by citing the Book of Exodus as II Moses.

Judge Sharswood also attended for some years the meetings of the Shakespeare Society of which Mr. Asa I. Fish, so long the Treasurer of the Law Association, was the Dean. Among the members of that time were Vice Provost Krauth and Professor Allen, and though each of those great scholars was easily pre-eminent in his own line, it was always a delight to hear Judge Sharswood discuss a question of construction or an emendation with the same directness, with which he would deal with the meaning of a contract or statute.

For some years before his election to the Supreme Court, it was his custom to be at home on Thursday evenings, where the talk would be as varied as it usually is when lawyers get together. His fund of anecdote about the older judges and lawyers was inexhaustible and his familiarity with the political and professional history of the State, and his fulness of knowledge upon every subject made him a charming and instructive companion. Hospitable and companionable he was the most gracious of hosts as he was the most welcome of guests.

As the result of the Thursday night gatherings, he consented to make up a Political Economy Club, and he and Mr. George W. Biddle (whose father translated Say's Political Economy) met with a number of young men every fortnight, for a number of years, during which the works of Adam Smith, John Stuart Mill, Ricardo and other writers were read and discussed. While this frequent and familiar intercourse was the privilege of a comparatively small number, he endeavored, to form and keep up at least an acquaintance with every lawyer, who appeared before him.

During the many years that he sat in the District Court his influence and aid touched every member of his Bar—Mr. McMurtrie said:—"I scarcely remember any one who came within his influence who was not his friend as far as he felt at liberty to so call himself"—but the students of this school most strongly enlisted his interest. In his second Introductory Lecture he said:

"I commenced this course on the fourth of October last, and was favored with the attendance of a class of intelligent young gentlemen, students and practitioners, in numbers far exceeding any the most sanguine expectations I had formed. Their punctual attendance, as well as their performance of the exercises prescribed to them, in the preparation of opinions and the discussion of the moot courts, were such as could not but be highly gratifying and encouraging to one who has assumed the post, with many fears and anxieties as to the success of the experiment, and much unaffected diffidence as to his

own ability and opportunity properly to discharge the duties belonging to the chair. My preparations, which were necessarily very hastily made, were certainly not such as I could myself wish them. But I may be allowed at least to entertain the hope that, *as I never had my heart more entirely in any thing than I have in this enterprise*, from a regard as well to my own reputation as to the interests of the institution with which it is connected, the bestowal of time and unwearied industry to improve the course will render it eventually more worthy of the approbation, with which it has been indulgently received."

That was the secret of his hold upon the young men who gathered about him. He had his heart entirely in his work, and every student knew and felt it to be so.

Fifteen years after resigning his Chair, at the dinner tendered to him by the Bar he said:

"I see among you many of my former pupils during the eighteen years that I was a professor in the Law Department of the University. To them I feel bound by the strongest ties, and shall always recollect the years of association with them as among the happiest of my life. I have watched the successful and honorable career of most of them with almost as much personal pride and pleasure as if they had been my own sons. One of them is soon to take his seat on the Bench, and I doubt not that high honors await many more."

It is not too much to claim for him that for whatever good his students have done in the profession and in the community, a larger obligation is due to him than to any other single influence; and almost as much was ascribed to his influence upon the entire Bar by Mr. William Henry Rawle, who, upon the same occasion, said:

"That if the Bar in this State and this City is what it is, a great part of it is owing, I think, to your careful study of a modest little book, which deserves to be printed in letters of gold, written by our distinguished guest of to-night. I mean Sharswood's Professional Ethics.' "

It had been Judge Sharswood's hope and ambition that his only child, a young man of great promise, who came to the Bar in the year 1871 should perpetuate his name in the profession; but his health gave way, and after a lingering illness, he died in 1881 at the early age of 31.

Anxiety for his son, added to an ailment of his own, which caused such suffering that he once said that "for years he had never known a waking hour, without the present consciousness of pain," clouded the later years of his life; and though his interest in his friends, after his retirement from the Chief Justiceship, never seemed to weaken, he was left childless and alone. It was the observation of Bacon that "A man shall see the noblest works and foundations to proceed from childless men, which have sought to express the images of their minds where those of their bodies have failed."

Judge Sharswood died without leaving a male descendant; but the students of this Law School may, if they will, inherit "the images of his mind" and heart, and prove their right of succession by emulating and transmitting the ideals of learning and duty, which he portrayed in his teachings and exemplified in his life.

APPENDIX.

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